

HOUSE BILL 850

By Marsh

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 7; Title 12; Title 41; Title 50; Title 58 and Title
62, relative to certain wage requirements.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 12-4-401, is amended by deleting the section in its entirety and substituting instead the following:

12-4-401.

This part shall be known and may be cited as the "Prevailing Wage Act for State Highway Construction Projects."

SECTION 2. Tennessee Code Annotated, Section 12-4-402, is amended by deleting the section in its entirety and substituting instead the following:

As used in this part, unless the context otherwise requires:

(1) "Commission" means the prevailing wage commission;

(2) "Highway contractor" means any contractor engaged in a state construction project for the purpose of building, rebuilding, locating, or relocating or repairing any streets, highways or bridges;

(3) "Prevailing wage" means the rate of pay as determined according to this part;

(4) "State contract" means any contractual agreement, written or oral, entered into by any person, firm or corporation with the state of Tennessee for the performance of work on a state highway construction project.

(5) ."State highway construction project" means any construction project for the purpose of building, rebuilding, locating, or relocating or repairing any streets, highways or bridges; and

SECTION 3. Tennessee Code Annotated, Section 12-4-403 is amended by deleting the language "state construction projects" wherever it may appear and substituting instead "state highway construction projects".

SECTION 4. Tennessee Code Annotated, Sections 12-4-403, 12-4-405(1) and 12-4-411(a), are amended by deleting the language "contractor" wherever it may appear and substituting instead "highway contractor".

SECTION 5. Tennessee Code Annotated, Section 12-4-404(b), is amended by deleting the language "state construction" and substituting instead the language "state highway construction".

SECTION 6. Tennessee Code Annotated, Sections 12-4-405(5)(A) and 12-4-406(a), are amended by deleting the language "contractors" wherever it may appear and substituting instead "highway contractors".

SECTION 7. Tennessee Code Annotated, Sections 12-4-407, 12-4-409 and 12-4-411(b) are amended by deleting the language "state construction project" wherever it may appear and substituting instead "state highway construction project".

SECTION 8. Tennessee Code Annotated, Section 12-4-405(2)(A), is amended by deleting the subdivision in its entirety and redesignating existing subdivisions accordingly.

SECTION 9. Tennessee Code Annotated, Section 12-4-405(3)(A), is amended by deleting the subdivision in its entirety and redesignating existing subdivisions accordingly.

SECTION 10. Tennessee Code Annotated, Section 12-4-405(4), is amended by deleting the subdivision in its entirety and redesignating existing subdivisions accordingly.

SECTION 11. Tennessee Code Annotated, Section 12-4-408, is amended by deleting the section in its entirety.

SECTION 12. Tennessee Code Annotated, Sections 12-4-409 and 12-4-412, are amended by deleting the language "contractor or subcontractor" wherever it may appear and substituting instead the language "highway contractor or subcontractor".

SECTION 13. Tennessee Code Annotated, Section 12-4-903(3)(C)(i), is amended by deleting the subdivision in its entirety and substituting instead the following:

(i) Wages that exceed the state's most current wage scale established pursuant to § 12-4-906; or

SECTION 14. Tennessee Code Annotated, Section 12-4-410, is amended by deleting the language "contractor and subcontractor" wherever it may appear and substituting instead the language "highway contractor and subcontractor".

SECTION 15. Tennessee Code Annotated, Section 12-4-411(a), is amended by deleting the language "contractor," wherever it may appear.

SECTION 16. Tennessee Code Annotated, Title 12, Chapter 4, Part 9, is amended by adding the following as a new section thereto:

12-4-906.

(a) Notwithstanding any charter, ordinance, resolution, rule or regulation to the contrary, the state, as a condition of doing business within the jurisdictional boundaries of the state or contracting with the state, shall require a private employer engaged in a construction contract to pay the employer's employees a wage in excess of the greater of either the wage required to be paid by such employer under applicable federal law, or the mean wage for the applicable occupation under the "construction and extraction occupations" published in the Tennessee Occupational Wages Report.

(b) If compliance with this section by the state relative to a specific contract, project, or program would result in the denial of federal funds that would otherwise be available to the state, then the state may require a private employer to pay its employees a wage necessary to meet the federal requirements to obtain the federal funds, but only relative to such contract, project, or program.

(c) Any interested party, including, but not limited to, a bidder, offeror, contractor, subcontractor, or taxpayer, shall have standing to challenge any contract, document or agreement that such party alleges has violated this section in the chancery court of Davidson County. Such party shall be awarded costs and attorney's fees in the event that the challenge prevails.

(d) As used in this section:

(1) "Construction contract" means the construction, erection, remodeling, repair, improvement, alteration or demolition of a building, structure or other undertaking; provided, that such undertaking is not for the purpose of building, rebuilding, locating, or relocating or repairing any streets, highways or bridges;

(2) "Political subdivision" means any local governmental entity, including, but not limited to, any municipality, metropolitan government, county, utility district, school district, public building authority, and development district created and existing pursuant to the laws of this state, or any instrumentality of government created by any one (1) or more of the named local governmental entities;

(3) "State" means the state of Tennessee and its political subdivisions, agencies and instrumentalities thereof; and

(4) "Tennessee Occupational Wages Report" means the report that is published by the Tennessee department of labor and workforce development, employment security division, for the year in which a construction contract is executed.

SECTION 17. Tennessee Code Annotated, Section 41-6-204, is amended by deleting the language "prescribed by the Prevailing Wage Act of 1975, compiled in title 12, chapter 4, part 4" and substituting instead the language "the mean wage for the applicable occupation

under the "construction and extraction occupations" published in the Tennessee Occupational Wages Report, as defined in § 12-4-906(d)".

SECTION 18. Tennessee Code Annotated, Section 7-4-205(a), is amended by deleting the language:

the prevailing wage rate for all types and classifications of work for contractors entering into a state contract pursuant to the Prevailing Wage Act of 1975, compiled in title 12, chapter 4, part 4

and substituting instead the language:

the mean wage for the applicable occupation under the "construction and extraction occupations" published in the Tennessee Occupational Wages Report, as defined in § 12-4-906(d)

SECTION 19. Tennessee Code Annotated, Section 7-4-205(b), is amended by deleting the language:

an average of the prevailing wage rate for all types and classifications of work for contractors entering into a state contract pursuant to the Prevailing Wage Act of 1975, compiled in title 12, chapter 4, part 4

and substituting instead the language:

the mean wage for the applicable occupation under the "construction and extraction occupations" published in the Tennessee Occupational Wages Report, as defined in § 12-4-906(d)

SECTION 20. This act shall take effect upon January 1, 2014, the public welfare requiring it, and shall apply to contracts executed on or after that date.